UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION TWENTY-SIX

KIMBERLY-CLARK CORPORATION

Employer

and **Case 26-RC-8335**

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 852

Petitioner

REGIONAL DIRECTOR'S DECISION AND ORDER

The Employer, Kimberly-Clark Corporation, operates a mill in Corinth, Mississippi where it manufactures a variety of non-woven products. The Petitioner, International Brotherhood of Electrical Workers, Local 852, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of all maintenance employees working at that mill. Following a hearing before a hearing officer of the Board, the parties filed briefs with me.

The issues raised in the hearing and addressed in the briefs involve whether a separate maintenance unit is appropriate and if so, whether the spin pack experts and meltblown die pack expert should be included in that unit. The Petitioner asserts that a separate maintenance unit of 61 employees, composed of the 26 shift maintenance employees, 9 maintenance leads and maintenance planners, and 26 central maintenance and day maintenance employees, is appropriate. The Employer, however, contends that if the shift maintenance employees are

included, the 63 process experts, 120 process specialists, and 22 converting operators must also be included because these employees share a strong community of interest. The Employer also contends that the three spin pack experts and one meltblown die pack expert are maintenance employees and should be included in any unit including other maintenance employees. The Employer's proposed unit would include about 270 employees.

I have considered the evidence adduced during the hearing and the arguments advanced by the parties. As discussed below, I have concluded that the employees which the Petitioner seeks to include in the unit do not share a sufficient separate community of interest to find a separate maintenance unit appropriate. Alternatively, if a unit of maintenance employees including the technical experts is determined to be appropriate, I would include spin pack experts and would permit the meltblown die pack expert to vote subject to challenge. Because the Petitioner stated at the hearing that it does not want to proceed to an election in an alternative unit to that requested in its petition, I am dismissing the petition in this case. To provide a context for my decision and discussion of these issues, I will first provide an overview of the Employer's operations and the employee-classification structure. Then, I will discuss the evidence regarding the employees' community of interest and the reasoning that supports my conclusions.

I. OVERVIEW OF EMPLOYER'S OPERATIONS AND EMPLOYEE-CLASSIFICATION STRUCTURE

The Employer operates two mills in Corinth, Mississippi: a mill producing non-woven products, referred to as the non-wovens mill; and a mill which produces industrial wiping cloths, referred to as the professional mill. The petitioned-for employees all work at the non-wovens

mill. No party contends that employees from the professional mill should be included in the bargaining unit. The non-wovens mill makes materials used for products such as diapers and feminine care products. The mill operates 24 hours a day, 7 days a week.

At the non-wovens mill, five base machines are used to produce the non-woven product. The base machines are the Spunbond I, Spunbond II, Meltblown, NBL, and CM4. Each of the base machines is staffed by a core team and a base machine crew, both of which report to an operations team leader for that machine.

Each core team is assigned to a specific base machine and has a core team leader who reports to the operations team leader for that machine. A core team typically consists of a maintenance lead and/or a maintenance planner, day maintenance employees, a process engineer, and a mechanical engineer. The core team members work the day shift, which runs from 7 a.m. to 3:30 p.m., Monday through Friday.

Each base machine crew is assigned to a specific machine and has about 9 to 11 employees consisting of 2 to 3 process experts, 1 technical expert (also referred to as a shift maintenance technician) and 6 to 7 process specialists. Each machine has four base machine crews who work twelve-hour shifts, with each crew alternating between morning and evening start times.

In addition to crews on the base machines, the Employer has a converting team that operates converting machines to convert the non-woven material into the end product. The converting team includes about 22 converting operators who perform duties similar to the process specialists on the base machine teams. The converting operation also has a core team which performs maintenance on the converting machines.

The Employer also has a central maintenance team, which consists of the central maintenance lead, the central maintenance employees, and the spin pack experts. The central maintenance employees perform maintenance work on mill-wide systems, rather than the base machines and converting machines. The spin pack experts maintain and repair the "spin packs" on the Spunbond base machines. The central maintenance employees and spin pack experts are the only employee groups that report to the central maintenance team leader who, like the base machine and converting team leaders, reports to the mill manager.

II. COMMUNITY OF INTEREST

The Board has historically found separate maintenance department units appropriate in the absence of a more comprehensive bargaining history, where it is established that the maintenance employees involved have the requisite community of interest. ***Sundor Brands, Inc***., 334 NLRB No. 100, slip op. at 2 (2001) citing ***American Cyanamid Co.***, 131 NLRB 909 (1961). In deciding whether the requisite community of interest among maintenance employees exists, the Board looks to such factors as mutuality of interests in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. Id. See also, ***Ore-Ida Foods, Inc.***, 313 NLRB 1016, 1019 (1994); ***Franklin Mint Corp.*** 254 NLRB 714, 716 (1981). Here, there is no evidence of a more comprehensive bargaining history. Accordingly, I will examine the community of interest factors to see if the maintenance employees are a readily identifiable group with a distinct community of interest. ***Sundor Brands***, supra.

A. Job Duties and Functions

Technical Experts (Shift Maintenance Employees): The 26 technical experts are each assigned to a specific crew, which is assigned to a specific base machine. The technical expert

spends almost all of his time working with that crew, which includes process experts and process specialists.

The primary job duties of the technical expert are to perform basic preventive maintenance and repair on his base machine. The technical experts are provided with a tool box and tools, including socket wrenches, ratchets, hammers, gauges, calipers and micrometers, for use in their maintenance duties. The technical expert's job duties also include performing operational work. This occurs when someone on the crew is sick or on vacation. The amount of time the technical expert spends each day performing operational work varies from about 10 to 90 percent depending on the machine and the time of year. The operations team leader for the Spunbond I testified that on average the technical experts spend about 20 to 30 percent of their time each day performing operations work. The technical experts also share responsibility with the process experts for providing day-to-day leadership of their crew, including providing assistance to process specialists with performance-related issues and sometimes completing performance reviews of crew members.

Process Experts: The 63 process experts, like the technical experts, are each assigned to a specific crew, on a particular base machine. Process experts are responsible generally for operation of the base machine, including performing operation work. The process expert is required to be familiar with basic operating requirements and possess some basic maintenance skills but must have more in-depth knowledge of the base machine operations than those possessed by a process specialist. Process experts also assist technical experts with maintenance work on the base machine, such as when the machine is down. Further, together with the technical experts, the process experts are required to provide day-to-day leadership of their crew,

including providing assistance to process specialists with performance-related issues and sometimes completing performance reviews of crew members.

Process Specialists: Each of the 120 process specialists is also assigned to a specific crew, which is assigned to a specific base machine. The process specialists are primarily responsible for performing operations work on the assigned base machine. The process specialists will, on occasion, provide assistance to the technical experts with maintenance tasks.

Meltblown Die Pack Expert : The meltblown die pack expert is a member of the meltblown team and is responsible for repairing, maintaining, and changing die tips and associated hot polymer equipment on the Meltblown base machine, one of the base machines. To perform this work, the meltblown die pack expert uses torque wrenches, feeler gauges, and micrometers. Virtually all of the meltblown die pack expert's work is performed in the area of the Meltblown machine and, any operational work performed by this employee would be on the Meltblown machine.

Day Maintenance Employees, Maintenance Planners, and Maintenance Leads: The day maintenance employees, including the maintenance leads and maintenance planners, are assigned to a core team which is assigned to a specific base machine or to converting. The sole responsibility of the day maintenance employees is to provide assistance with the maintenance and, occasionally, operational needs of their assigned machines. Each day the maintenance planner for each machine puts together a plan of work to be done by the day maintenance employees and the technical experts. Maintenance leads oversee the work performed by the day maintenance employees assigned to their core team and prepare for machine "downs" by getting necessary parts. The day maintenance employees spend about 80 percent of their time working

in the area of their assigned base machine and virtually all their time performing maintenance tasks.

Central Maintenance Employees and Lead: The central maintenance employees and the central maintenance lead are responsible for maintaining and overseeing the mill utility assets such as chilled water, compressed air, and waste water treatment for the entire facility. Approximately 80 percent of their time is spent working on those assets, while about 10 to 15 percent of their time is spent assisting with base machines which are down. The central maintenance employees' work is planned by the lead planner in central maintenance. In performing their duties, central maintenance employees rarely work with, or near, the base machine crews or on the base machines. Most of the central maintenance employees' work is performed in the central maintenance area and is limited almost exclusively to maintenance tasks.

Spin Pack Experts: The three spin pack experts are responsible for maintaining and repairing the spin packs on the Spunbond base machines. Their specific job requirements include disassembling, cleaning, inspecting, and reassembling the spin packs. In performing this work they use impact wrenches, torque wrenches, feeler gauges, micrometers, and microscopes. The job description for this position indicates that the equipment is heavy, bulky, and delicate and that the work requires precision and care. The spin pack experts perform virtually no operational work in the performance of their duties.

B. Wages and Benefits

All the employee classifications discussed above are hourly paid according to specific salary grades. The maintenance leads and maintenance planners are the highest paid, at the salary grade (SG) 7 rate. The process experts, central maintenance employees, day maintenance

employees, technical experts, and spin pack experts are all paid at the SG6 rate. The meltblown die pack expert is paid at the SG5 rate. The process specialists are paid at the SG4 rate while the converting operators are paid at the SG3 grade.

All hourly employees receive the same employee benefits package and are subject to the same rules, except for rules concerning scheduling time-off, which vary depending on whether the employee is a twelve-hour shift employee or a day shift employee, and rules regarding meal periods. The technical experts have the same rules regarding requesting time-off as the process experts, process specialists, and converting operators, while the day shift employees and central maintenance employees are subject to less restrictive rules regarding time-off requests. Further, the employees who work twelve-hour shifts are not permitted to leave the facility during meal times and are paid for that time, while the day shift employees are permitted to leave the facility at meal time but are not paid for that time.

C. Hours of Work

The base machine crews, made up of the technical experts, process experts, process specialists, and the converting operators, all work rotating twelve-hour shifts. These employees work one of the twelve-hour shifts with each crew alternating between the day and evening starting times, with days off in between. The day maintenance employees, maintenance leads, maintenance planners, central maintenance employees, spin pack experts, and meltblown die pack expert all work a day shift, which runs from 7 a.m. to 3:30 p.m., Monday through Friday.

D. Commonality of Supervision

The base machine crews and converting operations team are each supervised by the team leader assigned to their machine. Each core team, which includes maintenance planners, maintenance leads, and day maintenance employees, is assigned to a specific base machine and

is also supervised by the operations team leader assigned to that machine. The maintenance planner and maintenance lead assigned to each base machine also will sometimes oversee the work of the technical expert assigned to the same base machine. The central maintenance lead, central maintenance employees, and the spin pack experts are supervised by the central maintenance team leader. The meltblown die pack expert reports to the team leader assigned to the Meltblown machine.

E. Degree of Skills

The employees who work in a maintenance-oriented position are required to possess a higher degree of skills than the process experts, process technicians, spin pack experts, the meltblown die pack expert and the converting operators. The technical experts are required to have a minimum of a two-year degree in electronics along with at least two years of experience as a process expert or process specialist. Employees performing maintenance work are additionally provided with tools which operational employees are not given and must wear all cotton clothing to minimize the potential harm to them in the event of electric shock.

For the spin pack experts, the Employer requires a minimum of four years of base machine or technical experience along with basic maintenance skills and a demonstrated ability to perform the mechanical tasks required for the position. The meltblown die pack expert is required to have at least four years of experience working with the Meltblown machine along with a demonstrated ability to perform the mechanical tasks required for the position.

The process expert is only required to have basic maintenance skills and two years of experience as a process specialist on a crew assigned to that machine. As for the process specialists and converting operators, the Employer requires only that the employee have a high school diploma or GED and two years of relevant work experience.

F. Employee Interchange and Contact

Because the technical experts are assigned to a base machine crew and sometimes perform operations work or receive assistance from process experts or process specialists with maintenance tasks, the technical experts have a substantial amount of daily interaction with these other employee classifications. Further, as the base machine crew is assigned to a specific base machine, the area of work for the employees on each crew is limited to that area around the machine, which results in additional work and non-work interaction among the employee groups.

The maintenance leads, maintenance planners, and day maintenance employees also have regular contact with the process experts and process specialists. As these maintenance employees are each assigned to a core team, which is assigned to a specific base machine, their work area is also focused on the area around the base machine. While these maintenance employees generally only perform maintenance tasks, their work location in the plant facilitates work and non-work interaction among these maintenance employees and the process experts and process specialists.

With regard to the spin pack experts and the meltblown die pack expert, as each of these employees is assigned to work on a specific base machine (the Spunbond and Meltblown machines), they also have regular interaction with process experts, process specialists, technical experts and other maintenance employees assigned to these machines.

As for temporary substitutions of employees on the base machine crews, generally a technical expert is required to get another maintenance employee to replace him on his crew for that shift. Nonetheless, the Employer has permitted a process expert, who is sufficiently proficient in maintenance skills, to change shifts with a technical expert. Further, if a technical expert is absent due to vacation or illness, the crew often operates without a technical expert for

the shifts missed by the absent technical expert. In addition, the Employer commonly has a technical expert "move up" to a day maintenance or central maintenance position on a temporary basis, because of the similarity in skills required of these employee groups.

III. ANALYSIS

The Petitioner correctly argues in its brief that the Act does not require that the petitioned-for unit be the "most appropriate" unit. Moreover, I am cognizant of the fact that the unit sought by the petitioner is always a relevant consideration in a representation proceeding. See, ***Overnite Transportation Co***., 322 NLRB 723 (1996); ***Lundy Packing Co***., 314 NLRB 1042, 1043 (1994); ***Dezcon, Inc***., 295 NLRB 109 (1989). Nevertheless, as described above, here I must decide if the maintenance employees possess a sufficient separate community of interest.

The parties agree that the central maintenance employees, maintenance leads, maintenance planners, and day maintenance employees should be included in any unit found appropriate. As described above, these employees perform similar work, share similar wages, and have similar hours of work. However, the maintenance leads, maintenance planners, and day maintenance employees do not share common supervision with the central maintenance employees and there is limited interchange between these two groups of employees.

The Petitioner also seeks to include the technical experts in the unit with the other maintenance employees, while excluding the process experts and process specialists who are also assigned to the same base machine crew as the technical experts. The Petitioner correctly points out that technical experts are provided with tools, required to wear all-cotton clothing, are required to have a degree in electronics and relevant work experience, and perform maintenance work which the process experts and process specialists are unable to perform.

However, other factors suggest a strong community of interest between the technical experts and the process experts and process specialists. The technical experts share team leadership responsibilities with the process experts and spend almost all their time working with the process experts and process specialists. The technical experts have the same hours of work as the process experts and process specialists, rotating twelve-hour shifts, rather than the day shifts worked by the other maintenance employees. The technical experts regularly perform operational work as part of their regular assigned job duties. The process experts and process specialists also provide assistance to the technical experts in the performance of maintenance tasks. Also, the technical experts, process experts, and process specialists are supervised by the operations team leader for their assigned base machine, while the central maintenance employees are supervised by the central maintenance team leader. Lastly, the technical experts, process experts, central maintenance, and day maintenance employees are all paid at the same salary grade.

In these circumstances, I am unable to find that maintenance employees are a readily identifiable group with a distinct community of interest and are an appropriate unit for bargaining. The facts of this case are similar to those in ***U.S. Plywood-Champion Papers, Inc.***, 174 NLRB 292 (1969). In that case, the union petitioned for a maintenance only unit but the employer contended that production employees must be included in the unit. In that case, the maintenance employees often worked on the production floor and were supervised by production supervisors when performing production work. Further, both maintenance and production employees performed some maintenance functions. Lastly, the maintenance employees spent a majority of their work time in the production area of the plant and had the same benefits as and a common wage structure with production employees. In this case, the technical experts spend

nearly all of their work time in a production area and are supervised by the base machine team leaders, who also supervise the production employees. In addition, the technical experts perform a significant amount of production work as part of their regular job duties. Lastly, the technical experts share the same benefits and have a common wage structure as the production employees and are subject to rules which apply only to production employees and the technical experts. *See* ***Peterson/Puritan, Inc.***, 240 NLRB 1051 (1979) (where the disputed maintenance employees were assigned to and worked exclusively in production areas and shared common benefits with the production employees); ***F & M Schaefer Brewing Co.***, 198 NLRB 323 (1972) (where maintenance employees were assigned to production areas, production employees performed similar maintenance functions and the maintenance employees were supervised by production supervisors when on the production floor).

The facts in this case are distinguishable from cases such as ***Sundor Brands, Inc***., 334 NLRB No. 100 (2001) and ***Capri Sun***, 330 NLRB 1124 (2000) where the Board has found a separate maintenance unit to be appropriate. In ***Sundor Brands***, the Board found that the record did not support the assertion that higher-level technicians routinely filled in for absent lower-level production workers, and found that unit maintenance employees for the most part were supervised separately from other plant employees. In ***Capri Sun***, the Board noted the absence of evidence that maintenance employees were temporarily assigned to production jobs, and noted that unlike production employees, maintenance employees were "on-call" at all times and had no scheduled lunch and breaks.

Alternatively, if it is determined that a separate maintenance unit including the technical experts is appropriate, I would find that the spin pack experts should be included in the unit based on the common supervision with the central maintenance employees, similar wages, and

similarity in types of work performed. With regard to the meltblown die pack expert, however, I would find that the evidence regarding his maintenance skill level and duties is insufficient to determine if he should be included in the maintenance unit and I would allow the meltblown die pack expert to vote subject to challenge.

Because the Petitioner stated at the hearing that it did not wish to proceed to an election in any unit other than the petitioned-for unit, I have determined that, in the absence of any indication by the Petitioner to the contrary, the petition should be dismissed.

IV. CONCLUSIONS AND FINDINGS

Based on the entire record in this proceeding, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The Petitioner claims to represent certain employees of the Employer.

4. As explained above, because the Petitioner does not wish to proceed to an election in an appropriate unit, no question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

V. ORDER DISMISSING PETITION

I hereby order that the petition filed in this case is dismissed.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to

the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDT on **August 23, 2002.** The request may **not** be filed by facsimile.

Dated at Memphis, Tennessee, this 9th day of August 2002.

/S/

Ronald K. Hooks, Regional Director
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